

1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 DEPARTMENT OF PUBLIC PROTECTION

3 OFFICE OF INSURANCE

4 DIVISION OF HEALTH INSURANCE POLICY AND MANAGED CARE

5 (Emergency Administrative Regulation)

6 806 KAR 17:490E. Hospice benefit requirements.

7 RELATES TO: KRS 304.14-130, KRS 304.32-160, KRS 304.38-050

8 STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-250(8)

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the
10 commissioner of insurance may promulgate administrative regulations necessary for or as an aid
11 to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-
12 010. KRS 304.17A-250(8) requires all health benefit plans to cover hospice care at least equal to
13 the Medicare benefits. Executive Order 2003-064, filed December 23, 2003, created the
14 Environmental and Public Protection Cabinet. Executive Order 2004-031, filed January 6, 2004,
15 abolished the Department of Insurance and transferred all its “duties, functions, responsibilities,
16 records, equipment, staff and support budgets” to the Office of Insurance. This administrative
17 regulation clarifies the requirement that a health benefit plan shall provide a hospice benefit at
18 least equal to the Medicare hospice benefit.

19 Section 1. Definitions.

20 (1) “Health benefit plan” is defined in KRS 304.17A-005.

21 (2) “Health savings account” is defined in 26 U.S.C. §223(d).

1 (3) “High deductible health plan” means a health benefit plan that qualifies as a high
2 deductible health plan as defined in 26 U.S.C. § 223(c)(2).

3 (4) “Hospice” means an entity defined in 42 C.F.R. § 418.3 and approved by
4 Medicare or licensed pursuant to KRS Chapter 216B.

5 (5) “Hospice benefit” means services described in 42 C.F.R. Part 418, Subpart F if
6 provided by a hospice.

7 Section 2. Application of deductible to a hospice benefit. A hospice benefit provided for
8 a person covered under a high deductible health plan with a health savings account shall be
9 subject to deductible amounts as established in the health benefit plan.

APPROVED:

Glenn Jennings, Acting Executive Director
Kentucky Office of Insurance

Date

James Adams, Commissioner
Department of Public Protection

Date

LaJuana S. Wilcher, Secretary
Environmental and Public Protection Cabinet

Date

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation 806 KAR 17:490e, Hospice benefit requirements.

Contact Person: William J. Nold or Melea Kelch

(1) Provide a brief summary of:

What this administrative regulation does:

- (a) This administrative regulation clarifies the requirement found in KRS 304.17A-250(8) that all health benefit plans cover hospice care at least equal to the Medicare benefit.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify the intent and interpretation of KRS 304.17A-250(8) to allow Kentucky citizens to obtain high deductible health plans with health savings accounts.
- (c) How does this administrative regulation conform to the content of the authorizing statutes: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation clarifies the requirement found in KRS 304.17A-250(8).
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of KRS 304.17A-250(8) by clarifying this statute and allowing insurers to offer a health benefit plan that qualifies as a high deductible health plan and allows an insured to establish a health saving account.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation? N/A.
- (b) The necessity of the amendment to this administrative regulation: N/A.

- (c) How the amendment conforms to the content of the authorizing statutes: N/A.
- (d) How the amendment will assist in the effective administration of the statutes: N/A.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all Kentucky health insurers, wishing to offer a high deductible health plan. Additionally, this regulation should benefit Kentucky citizens without health insurance by encouraging insurers to offer less costly high deductible health plans and by permitting Kentucky citizens to take advantage of federal tax benefits by contributing to a health savings account.
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Both groups should feel a very positive impact. Because the language in the statute was un-clear, insurers have not been able to offer high deductible health plans. Now, Insurers will have a new product to market and Kentucky citizens have a new choice of product in the insurance market with substantial tax benefits.
- (5) Provide an estimate of how much it will cost to implement this regulation:
- (a) Initially: No Cost.
- (b) On a continuing basis. There should be no cost on a continuing basis.
- (6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? The budget of the Kentucky Office of Insurance.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. N/A

- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees.
- (9) TIERING: Is tiering applied? No, the requirement regarding hospice coverage will apply to all Kentucky Health Insurers who wish to offer high deductible health plans with health saving accounts.